THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.2315, 2723, 2734, 2735, 2737 and 2748 of 2005

Dated:14.12.2006

BETWEEN:

Gottumukkala Laxmi Narasimha Sita Rama Raju and others.

… Petitioners

and

The Mandal Revenue Officer and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.2315, 2723, 2734, 2735, 2737 and 2748 of 2005

COMMON ORDER:

These Writ Petitions are disposed of by this common order at the interlocutory stage as a short point is involved for consideration.

The petitioners in these Writ Petitions purchased land admeasuring 500 square yards to Acs.2.00 in Survey Nos.130/7 to 10 and 355/11 situated at Madhurawada Village of Chinagadili Mandal in Visakhapatnam District, from either K.A.Laxmana Rao or K.Kanaka Reddy. It is their case that their vendors were assigned land considering their claim as Ex-Servicemen, that the assignment in favour of the Ex-Servicemen does not attract the condition of inalienability, and therefore, the sale in their favour is valid. They further allege that the respondents visited the land in possession of the petitioners and made attempts to dispossess by use of force. Therefore, the present Writ Petitions are filed seeking appropriate writ, order or direction.

This Court initially passed interim orders and the respondents have now come forward with applications for vacating the interim orders.

It is the case of the respondents that the land in Survey Nos.130

and 355/11 is classified as assessed waste dry. V.Appanna and three others filed application before the District Collector for incorporation of changes of their names in the revenue records and for issuance of No Objection Certificate in terms of G.O.Ms.No.1117, dated 11.11.1993. Such application was made in respect of land admeasuring about Acs.19.00 in Survey Nos.348, 350/2, 350/3 and 352/3. The Joint Collector enquired into the same and noticed that the Tahasildar did not issue any pattas to those persons and pattas were forged. It was also found that K.A.Laxmana Rao or Kanaka Reddy was never assigned any land and the pattas produced are forged. Therefore, as directed by the District Collector criminal cases were lodged against the so-called Ex-Servicemen, who concocted forged pattas. The investigation is pending.

The learned Counsel for the petitioners rightly points out that the counter affidavits nowhere deny the allegation of the petitioners that they are in possession of the property. It is the case of the respondents that no assignment was made in respect of the land in Survey Nos.130/7 to 10, and Laxmana Rao and Kanaka Reddy fabricated such pattas and obtained no objection from the District administration.

Even when the investigation is pending in Crime No.13 of 2005 of P.S.Bheemunipatnam, if the petitioners are in possession of the land by virtue of the sale they obtained from the assignees, the petitioners cannot be dispossessed. Therefore, the Writ Petitions are disposed of in the following manner.

The Mandal Revenue Officer shall conduct a detailed enquiry into all assignments allegedly made in favour of the Ex-servicemen and others. If it is ultimately found that the D-Form pattas are fabricated and forged, appropriate action shall be taken against all those responsible for such fabrication of forged D-Form pattas. In case it is found that the pattas granted to K.A.Laxmana Rao and Kanaka Reddy are genuine, respondents shall not take any further action against the petitioners. However, if it is proved that pattas granted to the petitioners' vendors are forged and fabricated, the petitioners cannot be evicted unless appropriate due process of law is followed under the Andhra Pradesh Land Encroachment Act, 1905. No costs.

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(V.V.S.RAO, J)

14.12.2006
vs